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February 12, 2010

VIA FACSIMILE AND U.S. MAIL

Mr. Les Trobman  
General Counsel, MC-101  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: Sierra Club's Request for an Extension of the Briefing Schedule; TCEQ Docket No. 2009-0032-AIR; SOAH Docket No. 582-09-2045; *Application of IPA Coletto Creek, LLC for State Air Quality Permit 83778, Prevention of Significant Deterioration Permit PSD-TX-1118 and Hazardous Air Pollutant Permit HAP-18*

Dear General Counsel Trobman:

This letter response to a request from Sierra Club and Environmental Defense Fund (EDF) for an extension of the briefing schedule in the above-referenced matter is filed on behalf of Applicant IPA Coletto Creek, LLC. Counsel for Sierra Club and EDF did not contact the Applicant prior to filing their request, so the request does not indicate the Applicant's position on the extension, as required by 30 Tex. Admin. Code §80.257(b). Applicant is opposed to the request because it is not justified.

While Applicant understands that certain counsel who appeared in the above-referenced proceeding for Sierra Club and EDF may also be participating in another hearing, the current schedule was negotiated by the parties with full knowledge of the hearing schedule in this other matter. Without the requested extension, Sierra Club and EDF will have fourteen days following the issuance of the Proposal for Decision to prepare their exceptions, and the nature of the conflict is not such that counsel for the parties have to be in two places at the same time.

Furthermore, although counsel assert that no one will be harmed by their request, neither Sierra Club nor EDF has made any attempt to verify such a claim with the Applicant. The Applicant is eager for the permit for this important project to be heard by the Commission, and opposes delaying this proceeding further.

A copy of this filing is being served on the persons identified below. If you have any questions concerning this filing, please do not hesitate to contact me at the number above.

Mr. Les Trobman

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February 12, 2010

Sincerely,

A handwritten signature in black ink, appearing to read "D-R-McDonald".

Derek R. McDonald

ATTORNEY FOR APPLICANT IPA COLETO  
CREEK, LLC

cc: The Honorable William G. Newchurch (via E-Mail and Fax)  
The Honorable Richard R. Wilfong (via E-Mail and Fax)  
Garrett Arthur (via E-Mail)  
Wendi Hammond (via E-Mail)  
Booker Harrison and Ross Henderson (via E-Mail)  
Christina Mann and Layla Mansuri (via E-Mail)  
Paul Tough and Tom Weber (via E-Mail)

## CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing on the following on this 12th day of February, 2010.

### STATE OFFICE OF ADMINISTRATIVE HEARINGS

The Honorable William G. Newchurch  
The Honorable Richard R. Wilfong  
Administrative Law Judge  
SOAH Natural Resources  
300 West 15th Street, Suite 504  
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*Via Email and Fax*

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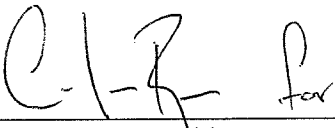
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### FOR THE EXECUTIVE DIRECTOR

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